

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KRISTOPHER EUGENE GARNER,)
Petitioner,) Civil Action No. 2: 16-cv-0223
v.) United States District Judge
) Nora Barry Fischer
)
COMMONWEALTH OF PENNSYLVANIA;)
THE ATTORNEY GENERAL OF THE)
STATE OF PENNSYLVANIA; DISTRICT)
ATTORNEY OF ALLEGHENY COUNTY;)
and SUPERINTENDENT OF SCI)
FRACKVILLE,)
)
Respondents.)

MEMORANDUM ORDER

Pending before the Court is the Report and Recommendation of Chief United States Magistrate Judge Cynthia Reed Eddy (ECF No. 22) recommending that the Petition for Writ of Habeas Corpus (ECF No. 5) be denied and that no certificate of appealability be issued. Petitioner was served with the Report and Recommendation at his listed address and was advised that he had until June 22, 2020, to file written objections to the Report and Recommendation. To date, Petitioner has not filed any objections nor has he sought an extension of time in which to do so.¹

The Court has reviewed the matter and concludes that the Report and Recommendation

¹ If a party does not file timely objections to a magistrate judge's report and recommendation, the party may lose its right to *de novo* review by the district court, although the court must still give "reasoned consideration" to the magistrate judge's report before adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878-79 (3d Cir. 1987). The district court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."

correctly analyzes the issues and makes a sound recommendation. Upon consideration of the Petition and documents in the case, together with the Report and Recommendation, and after undertaking a *de novo* review of the record, and in the exercise of sound judicial discretion,

It is HEREBY **ORDERED** that the Petition for Writ of Habeas Corpus is **DENIED** and a Certificate of Appealability is also **DENIED**.

IT IS FURTHER **ORDERED** that the Report and Recommendation of the Chief Magistrate Judge, dated June 3, 2020, hereby is **ADOPTED** as the Opinion of the District Court.

The Clerk of Court is **ORDERED** to mark this case closed.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

SO ORDERED this 30th day of June, 2020.

s/Nora Barry Fischer
Nora Barry Fischer
Senior United States District Judge

cc/ecf:

Honorable Cynthia Reed Eddy
Chief United States Magistrate Judge

KRISTOPHER EUGENE GARNER
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Fed.R.Civ.P. 72(b), advisory committee notes.

Frackville, PA 17931
(via U.S. First Class Mail)

Alicia H. Searfoss
Office of the District Attorney
(via CM/ECF electronic notification)